

STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-1290

Application of Christopher Greene for a certificate)
of public good for an interconnected net-metered)
photovoltaic system)

Order entered: 3/25/2011

I. INTRODUCTION

This case involves an application filed by Christopher Greene ("Applicant") on November 1, 2010, requesting a certificate of public good ("CPG") pursuant to 30 V.S.A. §§ 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100 for a net metering system. The net metering system consists of two pole-mounted solar tracking arrays to be located on property owned by the Applicant in South Burlington, Vermont (the "Project Property").

A copy of the application was sent, by the Applicant, to all parties as specified in the Board's Rule 5.100. The application stated that any party wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty days of the date that the application was sent.

In response to the application, on November 29, 2010, the Board received a letter from Jeffrey Kilgore in his capacity as the Trustee for the Ralph B. Goodrich Trust, a co-owner of an adjoining property. Mr. Kilgore states that while the "Trust is generally supportive" of the project, it will have a "negative impact on the Trust property, the properties in the neighborhood, and the integrity of the South Burlington Zoning Ordinance as it relates to maintaining the aesthetic quality of the Spear Street neighborhood."¹ Mr. Kilgore has not requested a hearing regarding the application.

1. Mr. Kilgore implies that the Project may be in violation of the South Burlington Zoning Ordinance, however, Mr. Kilgore has not cited to any provisions of that ordinance with which the project would be inconsistent. Kilgore letter at 2.

On January 12, 2011, the installer of the system, AllEarth Renewables, on behalf of the Applicant, filed additional information regarding the system and a response to Mr. Kilgore's letter.

No other comments regarding the application have been filed with the Board.

II. FINDINGS

Based upon the information in the record, including the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project is located on property owned by the Applicant at 1275 Spear Street in South Burlington, Vermont. Application at Section 1.

2. The proposed photovoltaic system consists of two pole-mounted solar tracking photovoltaic arrays to be installed on the Applicant's property approximately 300 feet west of the Applicant's residence. The nearest tracker will be approximately 300 feet west from the residence located on the adjacent Trust property. The Trust property is located to the north of the Project site property. Application at Section 4; Letter from AllEarth Renewables to the Board, filed January 12, 2011.

3. The proposed project has a total system-rated power output of 7.98 kW AC. The facility will be interconnected with the Green Mountain Power Corporation electrical distribution system. Application at Section 4 and attachments.

4. Each solar tracking array is approximately 17 feet in height and 22 feet in width. Application at Section 8 and attachments.

5. Because the solar trackers maintain a perpendicular angle to the sun, glare from the project will be largely avoided. Application at Section 8.

6. The Applicant has certified that the project is in compliance with all of the provisions of Sections 3 and 8 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 8.

7. The Applicant has certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

III. DISCUSSION & CONCLUSION

The Board has received comments from the Trustee of a co-owner of an adjoining property regarding the potential impacts of the proposed Project on the surrounding area. Board Rule 5.109(A) provides that the Board may hold a hearing for a net metering system when it determines that the system raises a substantive issue with respect to one or more of the criteria of 30 V.S.A. § 248. Pursuant to the Board's Order of April 19, 1999, in PSB Docket No. 6181, *"Investigation into the Use of a Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies,"* parties with objections or concerns must make a showing that the application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system. Accordingly, the Net Metering Application Form states that persons requesting a hearing regarding a net metering project "must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed net metering system."²

Pursuant to 3 V.S.A. § 811, the Board has read the record, including correspondence from the parties, and we conclude that Mr. Kilgore has not shown that the project raises a significant issue with respect to the applicable criteria. Mr. Kilgore's comments focus primarily on the aesthetic impacts of the project. Mr. Kilgore asserts that the project will be visible from the Trust property and other surrounding areas and, therefore, will have a negative impact on the aesthetics of the neighborhood.

The Board's net-metering rule sets forth the following analytical process for determining whether a project will have an undue adverse impact on aesthetics and scenic or natural beauty:

5.108 Aesthetic Evaluation of Net Metered Projects

(A) The Board has adopted the Vermont Environmental Board's Quechee analysis for guidance in assessing the aesthetic impacts of net metered projects, including wind turbines. In determining whether a project raises a significant issue with respect to aesthetic criteria contained in 30 V.S.A. 248(b)(5), the Board is guided by the two-part test outlined below:

1. First a determination must be made as to whether a project will have an adverse impact on aesthetics and the scenic and natural beauty. In order to find that it will have an adverse impact, a project must be out of

2. State of Vermont Public Service Board Application for a Certificate of Public Good for Interconnected Net Metered Power Systems, at 1. As noted above, the adjoining landowners and other entities specified in Board Rule 5.100 received a copy of the application form for the project before us.

- character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.
2. The next step in the two-part test, once a conclusion as to the adverse effect of the project has been reached, is to determine whether the adverse effect of the project is "undue." The adverse effect is considered undue when a positive finding is reached regarding any one of the following factors:
 - a. Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area?
 - b. Have the Applicant failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings?
 - c. Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?
 3. Analysis of whether a particular project will have an "undue" adverse effect on aesthetics and scenic or natural beauty is also significantly informed by the overall societal benefits of the project.

In addition to the Quechee analysis, the Board's consideration of aesthetics under Section 248 is "significantly informed by overall societal benefits of the project."³

The proposed solar tracker, at approximately 17 feet in height and 22 feet in width, is relatively small in comparison to the Applicant's residence and other homes in the vicinity. We agree with Mr. Kilgore that the project will be visible from certain vantage points, including the Trust property and other neighboring residences. However, the project will be located approximately 300 feet from the nearest residence and behind the Applicant's home. In addition, the use of a solar tracker will minimize any potential impacts related to glare from the project. Thus, we conclude that Mr. Kilgore has not shown that the project is out of character with its surroundings and, consequently, has not shown that the project raises a significant issue with respect to adverse aesthetic impacts.⁴

3. *In Re: Northern Loop Project*, Docket 6792, Order of 7/17/03 at 28 ("Northern Loop").

4. Because the comments have not shown that the project raises a significant issue under the first step of the Quechee analysis, there is no need to continue to the second prong of the analysis that would have examined possible mitigation measures including alternative locations for siting the project.

Consequently, because we find that the Mr. Kilgore has not shown that the project raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, further proceedings, including hearings, in this matter are unnecessary.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the photovoltaic net metering system proposed by the Applicant, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

DATED at Montpelier, Vermont, this 25th day of March, 2011.

<u>s/ James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/ David C. Coen</u>)	
)	BOARD
)	
<u>s/ John D. Burke</u>)	OF VERMONT

OFFICE OF THE CLERK

Filed: March 25, 2011

Attest: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.